REMARKS

Favorable reconsideration of this application is requested in view of the above amendments and the following remarks.

Claims 1, 4-10, 12-16 have been amended editorially. Claims 6 and 13 have been further amended to be in independent form. Claims 2, 3 and 11 have been canceled without prejudice or disclaimer. Applicant retains the right to present claims 2, 3 and 11 in a continuing application. Claims 17-20 have been added and are supported, for example, by page 6, lines 1-2 and by FIG. 20 and page 15, lines 25-27.

35 USC § 112 Rejections

Claims 1-16 are rejected under 35 USC 112, second paragraph, for indefiniteness. The rejection of claims 2, 3 and 11 is moot in view of the cancellation of the claims. Claims 1, 4-10, 12-16 have been amended editorially to clarify the test piece as an analytical testing element and to conform with current U.S. practice. Claim 1 has been further amended to clarify the removal of warped and non-warped test pieces, to further define the interfering means, and clarifying loose versus secured test pieces. Applicant respectfully requests that the rejection be withdrawn.

35 USC § 102 Rejections

Claims 1-16 are rejected under 35 USC 102(b) as being anticipated by Shindo et al. (US 5,556,597) or Maisey et al. (US 2002/0057993). Applicant respectfully traverses the rejection.

Claim 1 is directed to an analytical testing element supplying device where a horizontally extending plate interferes with loose analytical testing elements above a secured testing element accommodated in the recess. When the secured testing element is warped and partly protrudes from the recess, the horizontally extending plate comes into contact with the secured testing element for flattening the secured testing element into the recess when the movable body moves relative to the container.

Claim 6 is directed to an analytical testing element supplying device where a plurality of interference portions interfere with loose testing elements above a secured

testing element accommodated in the recess. When the secured testing element is warped and partly protrudes from the recess, the interference portions come into contact with the secured testing element for flattening the secured testing element into the recess when the movable body moves relative to the container.

Claim 13 is directed to an analytical testing element supplying device provided with interfering means that interfere with loose testing elements above a secured testing element in the recess. When the secured testing element is warped and partly protrudes from the recess, the interfering means come into contact with the secured testing element for flattening the secured testing element into the recess when the movable body moves relative to the container.

An advantage of the features of the claims is that the horizontally extending plate of claim 1, the interference portion of claim 6, or the interfering means of claim 13 interfere with the loose testing element making it possible to sweep the loose testing elements away from the secured testing element in the recess, so that only one testing element will be taken out of the container (page 10, lines 9-13).

Shindo does not disclose a horizontally extending plate of claim 1, the interference portion of claim 6, or the interfering means of claim 13, each of which flattens the secured testing element into the recess. Shindo depicts a warped test strip in FIG. 6(B). However, the warped test strip is included to illustrate that the shape of the test strip 14, before dipped in the sample liquid, becomes a curve of a constant height H in an elongated direction and after being dipped, it becomes linear as shown in FIG. 6(C) (col. 4, lines 3-6). It is clear that the Shindo does not teach or suggest the flattening of the testing element by the horizontally extending plate of claim 1, the interference portion of claim 6, or the interfering means of claim 13. Therefore, the rejection of the claims, as based on Shindo, should be withdrawn.

Maisey does not disclose or suggest the horizontally extending plate of claim 1, the interference portion of claim 6, or the interfering means of claim 13 that is adapted to interfere with loose testing elements while also flattening the secured testing element. As shown in FIG. 21 of Maisey, the sliding stop member 70 is spaced apart from the stack of test strips 16, and thus the member 70 does not interfere with these stacked test strips. Further, there are no such things as "loose testing elements" with Maisey's test device.

As shown in FIG. 16, for example, the test strips 16 are stacked. Therefore, Maisey does not teach or suggest the features of claim 1 and the rejection should be withdrawn.

The rejection of claims 2, 3 and 11 are moot in view of the cancellation of the claims. Claims 4-5, 7-10, 12 and 14-16 are allowable at least by virtue of their dependence on independent claims 1, 6 or 13 or intervening dependent claims. The rejection of these dependent claims should be withdrawn. Applicant does not concede the relevance of the reference to the dependent claims.

New Claims

New independent claims 17 and 19 are similar to original claim 15, but depend from claims 6 and 13. These claims are supported, for example, by page 6, lines 1-2. New independent claims 18 and 20 are similar to original claim 16, but depend from claims 6 and 13. These claims are supported, for example, by page 6, lines 1-2 and by FIG. 20 and page 15, lines 25-27. Applicant request that new claims 17-20 be entered and allowed.

Applicant respectfully requests that a timely Notice of Allowance be issued in this case.

If the Examiner believes a telephone conference would advance the prosecution of this application, the Examiner is invited to telephone the undersigned at the below-listed telephone number.

Respectfully submitted,

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